

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington St - Room W195
Indianapolis, IN 46204
Phone: (317)232-1979 FAX: (317)233-3790



Certified mail # 917190 00052720 0047 4251 8-7-15 jcs

Notification of Failure to Abate Alleged Violations

To:
Merritts Truck and Auto Repair
1025 Touby Pike
Kokomo, IN 46901

Inspection Site:
1025 Touby Pike
Kokomo, IN 46901

Original Inspection Number: 317403780
Original Inspection Date(s): 1/23/2014 - 3/20/2014
Inspection Number: 317867075
Inspection Date(s): 06/15/2015
Issuance Date: 8/7/2015

The violation(s) described in this Notification of Failure to Abate Alleged Violations is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

After the original inspection, a Safety Order(s) was issued to you in accordance with the provisions of the Occupational Safety and Health Act of 1970 (the Act), notifying you of certain violations of the Act and the dates by which they were to be abated. Based upon reinspection, it is alleged that you have failed to abate the violation(s) listed below within the time prescribed, and the following additional penalties are proposed. The additional penalty is computed by multiplying a daily penalty times the number of days the violation(s) remained unabated. You are to notify the Area Director in writing of the date and nature of the corrective action taken. If you do not abate the violation(s), further penalties may be proposed and other enforcement action to compel abatement may be taken under section 11(b) of the Act.

You are further notified that you must pay the ADDITIONAL PENALTY unless you inform the Area Director in writing that you intend to contest the Notification or the Additional Penalty within 15 working days (excluding weekends and State holidays) from your receipt of this notification. If you do not contest within 15 working days after receipt, the Notification and the additional penalties will become the final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency. Issuance of this Notification does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless the Notification is affirmed by the Review Commission.

Notification of Corrective Action - For each violation which you do not contest, you are required by 29 CFR 1903.19 to submit an Abatement Certification to the Area Director of the IOSHA office issuing the

safety order and identification above. The certification **must** be sent by you within **10 calendar days** of the abatement date of the abatement date identification on the safety order. For **Knowing** and **Repeat** violations, documents (examples: photos, copies of recipes, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the safety order is classified as Serious and the safety orders states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the safety order indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

For each safety order where you do contest the violation or the abatement date, your obligation to submit abatement certification and any documents is delayed until the contest and the 10-day period after the abatement date have expired. See 29CFR 1903.19 and the OSHA 3000 booklet for more information.

All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the safety order and safety order item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to IOSHA, also be posted at the location where the violation appeared and the corrective action took place.

Inspection Activity Data - you should be aware that IOSHA publishes information on its inspection and safety order activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 7 calendar days after the Safety Order Issuance Date. You are encouraged to review the information concerning your establishment at WWW.OSHA.GOV. If you have any dispute with the accuracy of the information displayed, please contact this office.

Make your check or money order payable to "Indiana DOL/IOSHA". Please indicate the Inspection Number on the remittance.

Indiana Department of Labor
Indiana Occupational Safety and Health Administration


NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the Notification of Failure to Abate Alleged Violations issued on 7/23/2014. The conference will be held at the OSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN, 46204 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

Indiana Department of Labor

Indiana Occupational Safety and Health Administration

Notification of Failure to Abate Alleged Violation

Original Inspection:	317403780	Inspection Number:	317867075
Original Inspection Date(s):	1/23/2014 - 3/20/2014	Inspection Date(s):	06/15/2015
		Issuance Date:	8/7/2015 
		CSHO ID:	F2654
		Optional Report No.:	18-2015

Company Name: Merritts Truck and Auto Repair

Inspection Site: 1025 Touby Pike, Kokomo, IN 46901

Safety Order 01 Item 001

29 CFR 1910.212(a)(3)(ii): Point(s) of operation of machinery were not guarded to prevent employee(s) from having any part of their body in the danger zone(s) during operating cycle(s):

A) Garage - No point of operation guard was in place on the bit for employees who used the Clausing vertical drill press (150-2000 rpm) on a weekly basis in the repair of automobiles and commercial trucks.

FAILURE TO ABATE

On June 15, 2015, a follow-up inspection determined that point of operation guarding was not in place on the Clausing vertical drill press. For a period of thirty (30) or more days, including (30) days from August 25, 2014, the employer failed to provide machine guarding as required by the terms of the Safety Order and Notification of Penalty issued In Re Inspection of Merritts Truck and Auto Repair and its Successors, Inspection No. 317403780, part of the citations issued to the employer on July 23, 2014, and the Final Order resulting therefrom.

B) Garage - No point of operation guarding was in place in the rear of the press to prevent employee access during use nor was there a means to prevent access to the point of operation for an employee who had their hand on the operating button directly next to the Enerpac PER-2042 hydraulic press die base plate during the operation cycle.

FAILURE TO ABATE

On June 15, 2015, a follow-up inspection determined that point of operation guarding was not in place on the Enerpac PER-2042 hydraulic press. For a period of thirty (30) or more days, including (30) days from August 25, 2014, the employer failed to provide machine guarding as required by the terms of the Safety Order and Notification of Penalty issued In Re Inspection of Merritts Truck and Auto Repair and its Successors, Inspection No. 317403780, part of the citations issued to the employer on July 23, 2014, and the Final Order resulting therefrom.

FAILURE TO ABATE Safety Order 01 Item 001, INSPECTION NO. 317403780, ISSUED ON July 23, 2014.


Additional Penalty:

\$24,000.00

Indiana Department of Labor

Indiana Occupational Safety and Health Administration

Notification of Failure to Abate Alleged Violation

Original Inspection:	317403780	Inspection Number:	317867075
Original Inspection Date(s):	1/23/2014 - 3/20/2014	Inspection Date(s):	06/15/2015
		Issuance Date:	8/7/2015 
		CSHO ID:	F2654
		Optional Report No.:	18-2015

Company Name: Merritts Truck and Auto Repair

Inspection Site: 1025 Touby Pike, Kokomo, IN 46901

Safety Order 01 Item 002

29 CFR 1910.215(b)(9): The distance between the abrasive wheel periphery(s) and the adjustable tongue or the end of the safety guard peripheral member at the top exceeded one fourth inch:

Garage - No tongue guard was in place on the pedestal abrasive wheel, that is used on a weekly basis in the repair of automobiles and commercial trucks, to protect employees from parts of the wheel in the event of a catastrophic failure of the wheel matrix.

FAILURE TO ABATE

On June 15, 2015, a follow-up inspection determined that the tongue guard on the Baldor HD Grinder was 3" from the abrasive wheel, greater than the 1/4" standard. For a period of thirty (30) or more days, including (30) days from August 25, 2014, the employer failed to provide an adequately adjusted tongue guard as required by the terms of the Safety Order and Notification of Penalty issued In Re Inspection of Merritts Truck and Auto Repair and its Successors, Inspection No. 317403780, part of the citations issued to the employer on July 23, 2014, and the Final Order resulting therefrom.

FAILURE TO ABATE Safety Order 01 Item 002, INSPECTION NO. 317403780, ISSUED ON July 23, 2014.


Additional Penalty:

\$24,000.00

Indiana Department of Labor

Indiana Occupational Safety and Health Administration

Notification of Failure to Abate Alleged Violation

Original Inspection:	317403780	Inspection Number:	317867075
Original Inspection Date(s):	1/23/2014 - 3/20/2014	Inspection Date(s):	06/15/2015
		Issuance Date:	8/7/2015 
		CSHO ID:	F2654
		Optional Report No.:	18-2015

Company Name: Merritts Truck and Auto Repair

Inspection Site: 1025 Touby Pike, Kokomo, IN 46901

Safety Order 01 Item 003

29 CFR 1910.303(b)(2): Listed or labeled electrical equipment was not used or installed in accordance with instructions included in the listing or labeling:

Garage - Up to four 110V metal four outlet electrical boxes with knockouts were used as drop down pendants for up to 8 hours a day to supply power to equipment such as, but not limited to; power tools, lighting, and radios, which potentially exposed employees to electrical shock hazards.

FAILURE TO ABATE

On June 15, 2015, a follow-up inspection determined that metal, wall mounted outlet boxes with knockouts were being used to supply power to various pieces of equipment. For a period of thirty (30) or more days, including (30) days from August 25, 2014, the employer failed to provide approved pendants/electrical drops as required by the terms of the Safety Order and Notification of Penalty issued In Re Inspection of Merritts Truck and Auto Repair and its Successors, Inspection No. 317403780, part of the citations issued to the employer on July 23, 2014, and the Final Order resulting therefrom.

FAILURE TO ABATE Safety Order 01 Item 003, INSPECTION NO. 317403780, ISSUED ON July 23, 2014.

Additional Penalty:


\$30,000.00

Indiana Department of Labor

Indiana Occupational Safety and Health Administration

Notification of Failure to Abate Alleged Violation

Original Inspection: 317403780
Original Inspection Date(s): 1/23/2014 - 3/20/2014

Inspection Number: 317867075
Inspection Date(s): 06/15/2015
Issuance Date: 8/7/2015 
CSHO ID: F2654
Optional Report No.: 18-2015

Company Name: Merritts Truck and Auto Repair
Inspection Site: 1025 Touby Pike, Kokomo, IN 46901

Safety Order 01 Item 004

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

Garage - No written hazard communication program was developed in the workplace where employees used hazardous products such as, but not limited to, Safety-Kleen premium solvent, spray paint, automobile oil, and 1st AYD Brake and Metal Parts Cleaner on a regular and routine basis.

A hazardous communication program shall consist of: a written program which at least describes labeling and other forms of warning, safety data sheets, criteria for employee information and training, list of hazardous chemicals, employee information on the hazards of non-routine tanks, and hazards of chemicals in unlabeled pipes.

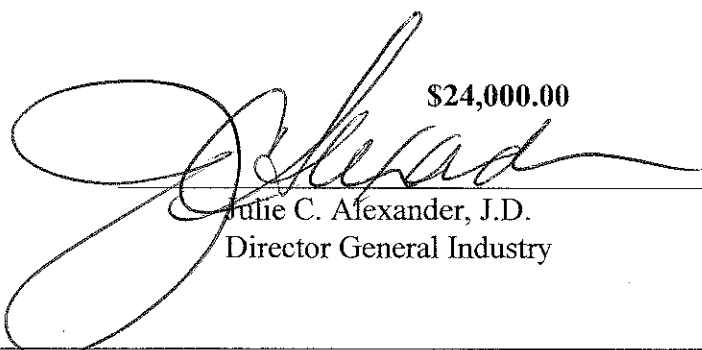
FAILURE TO ABATE

On June 15, 2015, a follow-up inspection determined that a written hazard communication program and the provisions contained therein was not in place or implemented. For a period of thirty (30) or more days, including (30) days from August 25, 2014, the employer failed to develop a hazard communication program as required by the terms of the Safety Order and Notification of Penalty issued In Re Inspection of Merritts Truck and Auto Repair and its Successors, Inspection No. 317403780, part of the citations issued to the employer on July 23, 2014, and the Final Order resulting therefrom.

FAILURE TO ABATE Safety Order 01 Item 004, INSPECTION NO. 317403780, ISSUED ON July 23, 2014.

Additional Penalty:

\$24,000.00


Julie C. Alexander, J.D.
Director General Industry

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington St - Room W195
Indianapolis, IN 46204
Phone: (317)232-2691 FAX: (317)233-3790



INVOICE/ DEBT COLLECTION NOTICE

Company Name: Merritts Truck and Auto Repair
Inspection Site: 1025 Touby Pike, Kokomo, IN 46901
Issuance Date: 8/7/2015
Opt. Insp. Nr: 18-2015

Summary of Penalties for Inspection Number: 317403780
Followup Inspection Number: 317867075

Safety Order 1, Serious = \$102,000.00
TOTAL ADDITIONAL PROPOSED PENALTIES
= \$102,000.00

To avoid additional charges, please remit payment promptly to this Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to:
"Indiana DOL/IOSHA". Please indicate IOSHA's Inspection Number (indicated above) on the remittance.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

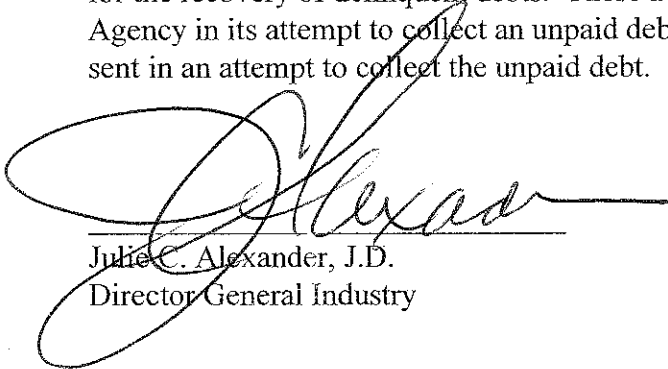
Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

Interest. Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is 5%. Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the

Safety Order and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges. A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs. Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.



Julie C. Alexander, J.D.
Director General Industry

8/11/15
Date